UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/556,654	11/12/2005	Nils Karlsson	P17859-US1	6545

27045   7590   06/15/2009
ERICSSON INC.
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EXAMINER
AGA, SORI A

ART UNIT	PAPER NUMBER
2419	

MAIL DATE	DELIVERY MODE
06/15/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action **Before the Filing of an Appeal Brief**	Application No.	Applicant(s)
	10/556,654	KARLSSON, NILS
	Examiner	Art Unit
	SORI A. AGA	2419

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>01 June 2009</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>1</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: <u>1-10 and 13-20</u>.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See explanatin below.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

   /Ayaz R. Sheikh/
   Supervisory Patent Examiner, Art Unit 2419

Burst teaches a source media gateway timestamps packets and transmits the packets to a destination gateway which records the arrival time of the timestamped packets. The destination media gateway attempts to determine congestion state and the point at which the link becomes congested using the delay computed based on the received control and bearer packets [see figure 9 and column 16 lines 6-55 for detailed discussion of the process employed]. This process of calculating the delay, determining the congestion state and the point at which the link becomes congested is considered to be equivalent to the claimed "monitoring the level of congestion suffered by incoming packets". Applicant has merely alleged the Burst reference does not teach the step of "monitoring the level of congestion suffered by incoming packets" without showing why the disclosure in the Burst reference including the steps of receiving the packets, computing delay and determining the congestion state based on the delay information recovered from the packets recevied is not equivalent with the claimed "monitoring the level of congestion suffered by incoming packets".

Similarly, applicant did not show why Burst's disclousure of the source media gateway sending the timestamped packets is not equivalent with the cliamed "transmistted from a group of media gateways". The source meida sends the packets. Therefore it is considered to be equivalent with the group of media gateways.

Similarly, Burst teaches based on the above discussed computation, a flag denoting whether or not to accept call requests for a destination is stored in a table (or alternatively the result of the computation is stored for a later use) [see column 17 line 60-column 18 line 15]. Applicant did not support the argument stating the Burst does not teach "making a decision on the admissibliity of that request based on the previously monitored level of congestion suffered by siad first media gateway for said incoming packets from said second media gateway or from said group of media gateways".

In response to the applicant's argument that "the present invention does not monitor or probe the whole network in order to find a congestion link" (see applicant's remarks page 8 section 3 and all of page 9), it is noted that the claim language does not exclude such arrangement. Examiner has shown each step in the instant claims of the invention is anticipated by the Burst reference. The recitation 'a group of gateways' does not necessarliy include only a particular group of media and exclude another particualr group. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).